

IN THE DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

NEIGHBORHOOD ASSOCIATION  
OF THE BACK BAY, INC.,

Plaintiff,

v.

FEDERAL TRANSIT  
ADMINISTRATION and  
MASSACHUSETTS BAY  
TRANSPORTATION AUTHORITY,

Defendants.

CASE NO.: 04-11550-RCL

ASSENTED TO MOTION FOR  
EXTENSION OF TIME

The Federal Transit Administration ("FTA"),<sup>1</sup> hereby moves for an extension of time of thirty (30) days from the Court's ruling on plaintiff's Motion to Amend Complaint, to answer or otherwise respond to the Complaint. As grounds therefor, the FTA states that counsel for plaintiff Neighborhood Association of the Back Bay, Inc. has indicated that he is going to file a motion for leave to amended the complaint to make clearer plaintiff's cause of action. The parties agree that this will assist both the parties and the Court, and so defendants have assented to plaintiff's motion to amend, and plaintiff's counsel has assented to defendants having thirty days to file a response, from the

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<sup>1</sup> This motion is not intended to be a responsive pleading. By the filing of this motion, Federal Defendant is not waiving any of the procedural, affirmative, or other waivable and non-waivable defenses available to it in the normal course of filing a responsive pleading. Federal defendant intends to raise those defenses when it answers or otherwise responds to the Complaint.

date the Court rules on plaintiff's motion.

As of today's date, plaintiff's counsel has not yet filed said motion, but the FTA understands it will be filed in the near future. Defendant FTA asserts that there have been no prior requests for extensions in this action.

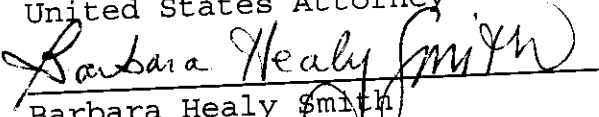
WHEREFORE, Defendant FTA respectfully requests that this Court allows its motion for an extension of time and order that defendant may have thirty days from the Court's ruling on any motion to Amend Complaint, or thirty days from ruling on the instant motion, whichever comes later, to answer or otherwise respond to the Complaint.

Respectfully submitted,

By their attorney,

MICHAEL J. SULLIVAN  
United States Attorney

By:

  
Barbara Healy Smith  
Assistant U.S. Attorney  
John Joseph Moakley U.S.  
Courthouse  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
(617) 748-3263

Dated: 13 September

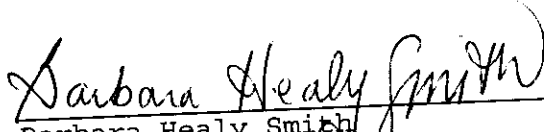
**CERTIFICATE OF SERVICE**

This is to certify that I have this 13<sup>th</sup> day of September, 2004, served upon the persons listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Gerald Fabiano  
Pierce, Davis, Fahey & Perritano, LLP  
5th Floor  
Ten Wintrop Square  
Boston, MA 02110

Stephen M. Leonard  
Brown, Rudnick, Berlack & Israels, PPC  
1 Financial Center  
Boston, MA 02111

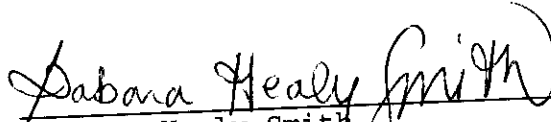
13 September 2004

  
Barbara Healy Smith  
Assistant U.S. Attorney

**Local Rule 7.1 Certification**

The undersigned hereby certifies that in keeping with L.R. 7.1(a)(2) she has conferred with plaintiff's counsel several times, including on the afternoon of September 13, 2004, about the within issues, and plaintiff has assented to the filing of this motion and the relief sought herein.

13 September 2004

  
Barbara Healy Smith  
Assistant U.S. Attorney